IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR.

1. S.B. CIVIL WRIT PETITION NO.1069/2004
   J.K. Corp. Ltd. vs. State of Rajasthan & ors.
2. S.B. CIVIL WRIT PETITION NO.1080/2004
   Ambuja Cement Raj. Ltd. vs. State of Raj. & ors.
3. S.B. CIVIL WRIT PETITION NO.1446/2004
   J.K. Cement Works vs. State of Rajasthan & ors.
4. S.B. CIVIL WRIT PETITION NO.1447/2004
   Birla Cement Works. vs. State of Rajasthan & ors.

Date : 4.1.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Rajendra Mehta) for the petitioners.
Mr. Dinesh Mehta)
Mr. D.D. Thanvi)

Mr. N.M. Lodha, AAG, for the respondents.

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Heard learned counsel for the parties.

All these writ petitions are decided by this common order as they involve common point.

By these writ petitions, the petitioners have challenged the revised assessment orders for various years on various grounds.

During pendency of these writ petitions, the State Government has decided vide Annexure-A/1 and Annexure-A/2 dated 3.11.2004 and 20.11.2004 respectively that fresh ratio be determined by NCCBM. That report will be a relevant factor for deciding the liability of the petitioner which is involved in these writ petitions.

According to learned counsel for the petitioners, the petitioner may get the entire relief if that fresh report comes in favour of the petitioner. It is also submitted that though there is earlier report in favour of the petitioner but that was not accepted by the State on the ground that the said report was obtained by the petitioner at the back of department's representative.

Learned Addl. Advocate General appearing for State submitted that there will be no necessity of passing any fresh assessment order in case, the report from NCCBM only confirms the stand taken by the department.

Since the report of NCCBM has important bearing on the decision of the present writ petitions because the orders under challenge are sought to be challenged on the basis of the report which the petitioners are relying upon, therefore, in case the report comes in favour of the petitioner and the department itself decides in favour of the petitioner in the light of

the said expert's report, then there will be no reason for the petitioner to challenge the impugned assessment orders. Since the entire controversy may come to an end, in case the department decides in favour of the petitioner after receipt of the report of NCCBM, therefore, there is no reason for keeping these writ petitions pending. Accordingly, the present writ petitions have become infructuous and hence, deserves to be dismissed with liberty to the petitioner to challenge the impugned order again.

In view of the above, the present writ petitions are dismissed as having become infructuous with liberty to the petitioners to challenge the impugned assessment orders again in case they fail to get any relief from the department on the basis of the report of NCCBM and they will be free to raise all grounds which they have raised in the present writ petitions and may also include the grounds to challenge the decision of the State for not granting relief after the report of NCCBM.

Since the matter in controversy is required to be examined in the light of the report of NCCBM, therefore, the entire liability of the petitioner may depend upon the said report and upon the decision of the State authorities relating to the petitioner's liability, therefore, during the period upto which the State authorities take decision after getting the report from NCCBM, the State authorities shall not

recover the amount in question from the petitioners. However, it is made clear that after the decision of the State authorities on receipt of report from NCCBM, if it finds their earlier decision correct, the State will be free to recover the amount in the light of assessment order originally passed but shall give four weeks time to the petitioners to approach this Court again.

(PRAKASH TATIA), J.

S.Phophaliya